

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

JEFFREY THOMAS CUMMINS,)	No. C 05-0999 MMC (PR)
)	
Petitioner,)	ORDER DENYING REQUEST FOR
)	APPOINTMENT OF COUNSEL;
v.)	EXTENDING TIME TO FILE
)	OPPOSITION
A. KANE, WARDEN, et al.,)	
)	(Docket No. 4)
Respondents.)	

— Petitioner, a California state prisoner proceeding pro se, filed the above-titled petition for a writ of habeas corpus, challenging the denial of parole. After respondent filed a motion to dismiss, petitioner filed a motion for appointment of counsel.

The Sixth Amendment's right to counsel does not apply in habeas actions. Knaubert v. Goldsmith, 791 F.2d 722, 728 (9th Cir.), cert. denied, 479 U.S. 867 (1986). Pursuant to statute, however, a district court is authorized to appoint counsel to represent a habeas petitioner whenever "the court determines that the interests of justice so require and such person is financially unable to obtain representation." See 18 U.S.C. § 3006A(a)(2)(B). Here, petitioner's claims have been adequately presented in the petition. Moreover, the issues raised in the petition, as well as by respondent's motion, are currently under consideration in a case pending before the Ninth Circuit Court of Appeals. As such issues are likely to be resolved in the near future by the Ninth Circuit, the interests of justice do not require appointment of counsel in the instant case at this time. Should the circumstances change materially at a later stage of the litigation, the Court will reconsider

1 this decision sua sponte.


2 Accordingly, the request for appointment of counsel is hereby DENIED.

3 Petitioner is granted an extension of time, to and including **October 31, 2005**, in
4 which to file an opposition to respondent's motion. Respondent **shall** file a reply on or
5 before **November 15, 2005**.

6 This order terminates Docket No. 4.

7 IT IS SO ORDERED.

8 DATED: September 26, 2005

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MAXINE M. CHESNEY
10 United States District Judge
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